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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,542	04/14/2004	Noriaki Hashimoto	2910-105	4423
66458	7590	09/26/2007		
WATCHSTONE P+D, PLC 1250 CONNECTICUT AVENUE, N.W. SUITE 700 WASHINGTON, DC 20036-2657			EXAMINER PHAN, MAN U	
			ART UNIT	PAPER NUMBER
			2616	
			MAIL DATE	DELIVERY MODE
			09/26/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/823,542	<b>Applicant(s)</b> HASHIMOTO, NORIAKI	
	<b>Examiner</b> Man Phan	<b>Art Unit</b> 2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/14/04</u> . | 6) <input type="checkbox"/> Other: _____  |

***DETAILED ACTION***

1. The application of Hashimoto for an "Method and system for operation of a resilient closed communication network without a dedicated protection network segment" filed 04/14/2004 has been examined. This application is a division of 09/523,375 filed 3/10/2000 is now US Patent #6,894,978. The preliminary amendment filed 4/14/2004 have been entered and made of record. Claims 1-4 are pending in the present application.

2. The applicant should use this period for response to thoroughly and very closely proof read and review the whole of the application for correct correlation between reference numerals in the textual portion of the Specification and Drawings along with any minor spelling errors, general typographical errors, accuracy, assurance of proper use for Trademarks <sup>TM</sup>, and other legal symbols @, where required, and clarity of meaning in the Specification, Drawings, and specifically the claims (i.e., provide proper antecedent basis for "the" and "said" within each claim). Minor typographical errors could render a Patent unenforceable and so the applicant is strongly encouraged to aid in this endeavor.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless

(e) the invention was described in a patent granted on an application for patent by another filed in the

United States before the invention thereof by the applicant for patent, or on an international application by

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another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

4. Claims 1, 3-4 are rejected under 35 U.S.C. 102(e) as being anticipated by Dantu et al. (US#6,532,088).

With respect to claim 1, Dantu et al. (US#6,532,088) discloses a method for operating a resilient closed communication network comprising at least one communication ring, the method comprising the steps of:

receiving a data packet from a first external network at a first distributing station connected to the resilient closed communication network (receiving IP packet 124 at node 204, see figure 2);

identifying a second distributing station connected to the resilient closed communication network from which the data packet is to be forwarded to a second external network;

determining functioning routes from the first distributing station to the second distributing station within the resilient closed communication network;

selecting an optimal route among the functioning routes; and

sending the data packet from the first distributing station to the second distributing station using the optimal route (see claim 1 and figure 3).

With respect to claim 3, Dantu further discloses no segment of the at least one communication ring is used as a dedicated protection segment (one ring is used as a dedicated protection ring and the other as working ring, see col. 8 lines 1-19).

With respect to claim 10, Dantu further discloses the at least one communication ring is made of fiber optic cables (see col. 7 lines 65 to col. 8 line 19).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dantu et al. (US#6,532,088).

With respect to claim 2, the reference discloses a method and system for operating a resilient closed communication network comprising at least one communication ring, according to the essential features of the claim. Dantu et al. (US#6,532,088) fails to disclose the optimization factors including an available traffic volume, an actual distance value, and a preference value are considered in the selecting step.

However, it would have been obvious to one having ordinary skill in the art at the time of invention was made to cause the processor 402 of node 400 to consider the traffic value, distance, and preference value when determining the path route in order to avoid overloading the communication link.

It's also noted that the routing module (processor 402 of node 400) can determine the route as a function of a route condition parameter such as, by way of example, an optimization factor, a route distance, a time, a transit time, a cost, and a unit cost. wherein the database of

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route optimization factors includes information about at least one of the following factors: distances between processing stations; average speed between processing stations; available transportation equipment; average processing time at each processing station; traffic conditions; and weather.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The Dantu et al. (US#6,532,088) is cited to show a system and method for packet level distributed routing in fiber optic rings.

The Uphadya et al. (US#5,949,755) is cited to show the ATM emulated path protection.

The Marra et al. (US#5,341,364) is cited to show the distributed switching in bidirectional multiplex section-switched ring-transmission systems.

The Lamberton et al. (US#7,003,581) is cited to show a system and method for improved load balancing and high availability in a data processing system having an IP host with a marp layer.

The Crawley et al. (US#5,995,503) is cited to show the method and apparatus for providing QoS routing in a network.

The Shiozawa (US#7,075,889) is cited to show the packet protection technique.

The Shimano et al. (US#6,947,377) is cited to show a path network and path network operation method using conversion of protection path into working path.

The Hurlocker (US#6,320,860) is cited to show a method of providing ATM path switched ring functionality.

The Roa-Diaz (US#6,940,810) is cited to show a protection switching of virtual connections at the data link layer.

The Romana et al. (US#6,785,285) is cited to show a method and system for providing broadcast channels over an emulated subnetwork.

The Onaka et al. (US#6,583,900) is cited to show an optical transmission apparatus, optical transmission system, and optical terminal station.

The Hurlocker (US#7,002,962) is cited to show a method, processor and system of providing ATM unidirectional path switched ring functionality.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Phan whose telephone number is (571) 272-3149. The examiner can normally be reached on Mon - Fri from 6:00 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Patel, can be reached on (571) 272-2988. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2600.

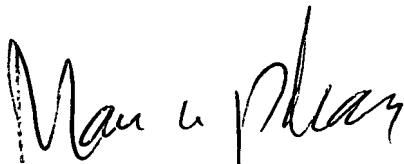
9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about

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the PAIR system, see <http://pair-direct.uspto.gov>. Should you have any questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at toll free 1-866-217-9197.

Mphan

09/20/2007

A handwritten signature in black ink, appearing to read "Man U. Phan". The signature is written in a cursive, flowing style.

**MAN U. PHAN  
PRIMARY EXAMINER**